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In the High Court of Judicature at Madras

Dated:18.04.2006

Coram:

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.91 of 2006

A.Ramachandran .. Petitioner

vs.

1. The District Magistrate
   and District Collector
   Villupuram District
   Villupuram.

2. The Sub Inspector of Police
   Prohibition and Enforcement Wing
   Tindivanam.

3. The Inspector of Police
   Valathi Police Station
   Gingee Taluk. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus directing the respondents to produce the body of detenu namely (A.Ramachandhiran) before this Hon'ble Court under Detention in Central Prison at Cuddalore in Detention Order C2/64754/2005 dated 6.12.2005 under BDFGIS Act 14/82 on the file of the first respondent and call for the records in connection with the above said detention order on the file of the first respondent and set aside the same and set him at liberty.

For petitioner : Mr.R.Sankarasubbu
for Mr.S.Mazhaimeni Pandiyan

For respondents : Mr.Abudukumar Rajarathinam
Govt., Advocate (Crl.)

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name A. Ramachandran, challenges the impugned order of detention dated 06.12.2005, detaining him as "Boot-Legger" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous

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Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. The learned counsel for the petitioner submitted that though a pre-detention representation was made on 28.11.2005 to the Detaining Authority, which was duly acknowledged, the same has not been considered by the authority concerned while passing the impugned detention order, which vitiates the same. With reference to the same, we verified the grounds of detention as well as the pre-detention representation dated 28.11.2005. Paragraph 4 of the Grounds of Detention makes it clear that a telegram sent by one Jaya, W/o.A.Ramachandiran (detenu) on 25.11.2005, was considered and reply was sent to her in Office Reference No.C2/62806/05 dated 03.12.2005. The said reply is available at page 84 of the paper book supplied to the detenu. A perusal of the said reply shows that on receipt of the telegram dated 25.11.2005, the same has been forwarded to the concerned Police Officer for necessary remarks and on receipt of the same, necessary orders will be passed. On the other hand, as pointed out above, paragraph 4 of the Grounds of Detention shows that the grievance expressed in the telegram dated 25.11.2005 was considered and appropriate reply was sent to the petitioner on 03.12.2005. When the reply dated 03.12.2005 of the Detaining Authority shows that the grievance expressed in the telegram is under consideration and orders will be passed, the Detaining Authority while passing the impugned order of detention it is stated that suitable reply had been sent on 03.12.2005 to Tmt.Jaya, wife of the detenu, which shows non-application of mind on the part of the Detaining Authority, which vitiates the impugned detention order and the same is liable to be quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The District Magistrate
   and District Collector
   Villupuram District
   Villupuram.

2. The Sub Inspector of Police
   Prohibition and Enforcement Wing
   Tindivanam.

3. The Inspector of Police
   Valathi Police Station
   Gingee Taluk.

4. The Joint Secretary to Government
   Public (Law and Order)
   Department, High Court, Madras.

5. The Superintendent
   Central Prison, Cuddalore.

6. The Public Prosecutor
   High Court, Madras.

NG (CO)
RSM/26.4.2006

H.C.P.No.91 of 2006

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